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*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC and  
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES, LLC,

Defendant.

In re:

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Debtor.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

H. SCHAFER FOUNDATION, INC.,

Defendant.

Adv. Pro. No. 10-05050 (SMB)

**TRUSTEE'S REQUEST TO ENTER DEFAULT**

To: CLERK OF THE COURT  
UNITED STATES BANKRUPTCY COURT

Irving H. Picard (the "Trustee"), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities, LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the Estate of Bernard L. Madoff, by and through his counsel, Baker & Hostetler LLP, respectfully requests that the Clerk of the Court issue a Certificate of Default against defendant H. Schaffer Foundation, Inc., pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, made applicable to this Adversary Proceeding by Rule 7055 of the Federal Rules of Bankruptcy Procedure, for failure to plead or otherwise defend the above-captioned action as it fully appears from the Court file and from the attached Affidavit.

**WHEREFORE**, the Trustee respectfully requests that this Court grant the Trustee's Motion in its entirety and provide for such other relief as this Court deems just and proper.

Dated: New York, New York  
July 23, 2014

Respectfully submitted,

*/s/ Nicholas J. Cremona*

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Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-05050 (SMB)

**AFFIDAVIT SUPPORTING ENTRY OF DEFAULT**

[illegible]

Heather J. McDonald, being duly sworn, hereby attests as follows:

1. I am a member of the Bar of this Court and a partner at the firm of Baker & Hostetler LLP, which is counsel for Irving H. Picard (“Trustee”), Trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”) and the Estate of Bernard L. Madoff, individually.

2. On December 2, 2010, the Trustee commenced this adversary proceeding by filing a complaint (the “Complaint”) against H. Schaffer Foundation, Inc. (“Defendant”). (Dkt. No. 1.) The Complaint asserted claims pursuant to sections 78fff(b), 78fff-1(a) and 78fff-2(c)(3) of SIPA, sections 105(a), 544, 548(a), 550(a), and 551 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, and other applicable law, seeking the avoidance and recovery of fraudulent transfers in connection with certain transfers of property by BLMIS to or for the benefit of Defendant. (*Id.*).

3. On March 1, 2011, the Clerk of this Court issued a summons upon Defendant. (Dkt. No. 3.)

4. On March 1, 2011, the Trustee, in accordance with Bankruptcy Rule 7004(b) of the Federal Rules of Bankruptcy Procedure, timely served the Summons and Complaint upon Defendant. An Affidavit of Service evidencing proper and timely service was filed with the Court. (*See* Ex. A, Affidavit of Service; Dkt. No. 4.)

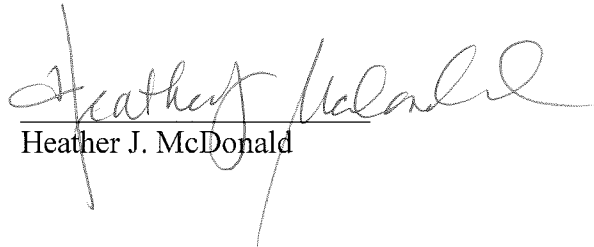
5. Pursuant to the Order (1) Establishing Litigation Case Management Procedures For Avoidance Actions And (2) Amending The February 16, 2010 Protective Order governing the litigation of certain avoidance actions, including this adversary proceeding, the time by which Defendant may answer or otherwise move with respect to the Complaint expired May 2, 2011. (*See* Dkt. No. 3.)

6. Despite being duly served with the Summons and Complaint, Defendant did not file an answer, move, or otherwise respond to the Complaint on or before May 2, 2011.

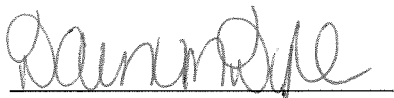
7. Defendant is a business entity and therefore is neither an infant nor incompetent.

8. Moreover, because Defendant is a business entity, the protections afforded under the Servicemember's Civil Relief Act of 2003 should not apply.

9. I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.

  
Heather J. McDonald

Sworn to before me this  
23<sup>rd</sup> day of July 2014

  
Notary Public

DAWN VAN DYKE  
Notary Public, State of New York  
No.01VA6154528  
Qualified in New York County  
Commission Expires 10/23/2010

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## Exhibit A

**UNITED STATES BANKRUPTCY COURT  
Southern District of New York**

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SECURITIES INVESTOR PROTECTION  
CORPORATION,

Adv. Pro. No. 08-01789 (BRL)

Plaintiff-Applicant,

SIPA LIQUIDATION

v.  
BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

(Substantively Consolidated)

Defendant.  
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In re:

BERNARD L. MADOFF,

Case No. 09-11893 (BRL)

Debtor.  
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IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Adv. Pro. No. 10-05050 (BRL)

Plaintiff,

v.

H. SCHAFER FOUNDATION, INC.,

Defendant.  
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**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK            )  
                                          ) ss:  
COUNTY OF NEW YORK        )

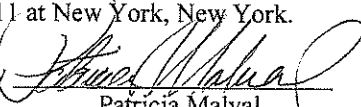
I, Patricia Malval declare:

1. I am over the age of 18 years and not a party to these chapter 11 cases.
2. I am employed by Donlin, Recano & Company, Inc., 419 Park Avenue South, Suite 1206, New York, NY 10016.
3. On the 1<sup>st</sup> day of March, 2011, I caused a true and accurate copy of the:
  - (i) "Complaint", along with the relevant exhibits (Docket No. 1); and the



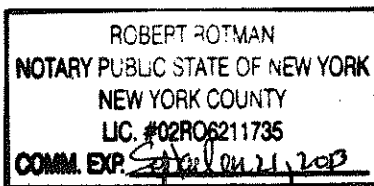
- (ii) "Notice of Applicability of the Order Approving Case Management Procedures for Avoidance Actions" (Docket No. 2); and the
  - (iii) "Summons and Notice of Pretrial Conference in An Adversary Proceeding" (Docket No. 3); and the
  - (iv) "Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order" dated November 11, 2010; and the
  - (v) "Avoidance Action Executive Summary Letter dated December 20, 2010"; and the
  - (vi) "Third Amended Notice of Omnibus Avoidance Action Hearing Dates",
- to be served upon the parties listed on Exhibit 1, attached hereto, via First Class US Mail.
4. Said documents were securely enclosed in postage prepaid envelopes and delivered to an office of the United States Postal Service for delivery by First Class Mail.
5. I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed this 1<sup>st</sup> day of March, 2011 at New York, New York.

By

  
Patricia Malval

Sworn before me this  
1<sup>st</sup> day of March, 2011

  
Notary Public



Date : 3/1/2011

**Adv Pro No: 10-05050 (BRL)**  
**Exhibit 1**  
**Redacted Version**

Page # : 1

H SCHAFFER FOUNDATION INC

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H SCHAFFER FOUNDATION INC  
WEST RUTLAND VT 05777

004406 011128